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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,382	08/06/2003	Donald Sheley Tracey	1999B062A	1278

23455 7590 05/16/2006

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EXAMINER

KNABLE, GEOFFREY L

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 05/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/635,382

**Applicant(s)**

TRACEY ET AL.

**Examiner**

Geoffrey L. Knable

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2006.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5,6,8-18,20,21 and 23-37 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-3,5,6,8-18,20,21 and 23-37 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

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1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 10, 14, 18 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by WO 01/48033 to Tracey et al.

In light of applicant's arguments and amendments to the claims, the rejection over WO 01/48033 has been withdrawn against most of the claims. However, claims 10, 14, 18, 31 (to be treated below) and 32 are considered to lack descriptive support in the parent applicant and therefore are not entitled to benefit of this filing date. This reference is therefore still available as prior art as it was published on July 5, 2001, this being more than one year prior to the August 6, 2003 filing date for this application. As to the specifics of these claims, note that WO '033 suggests butyl rubber in the blend and thus satisfies the requirements of these claims.

3. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over WO 01/48033 to Tracey et al. taken in view of Costemalle et al. (US 5,333,662) as applied in the last office action.

4. Claims 1-3, 5, 6, 8-16, 20, 21, 23-32 and 35-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Costemalle et al. (US 5,333,662) taken in view of Elspass et al. (US 5,807,629) and the excerpted portion of the Polymeric Materials Encyclopedia (pp. 3484-3492; cited by applicant).

These references are applied herein for substantially the same reasons as set forth in the last office action. As to the amendments to the independent claims to require a certain halogen content, note col. 1, lines 62-64 and col. 9, lines 15-21 of

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Costemalle et al. '662. As to the at least 15 parts of the halogenated isobutylene copolymer in the blend, note col. 7, lines 62-68 of Costemalle et al. '662.

5. The terminal disclaimer filed on 3-1-2006 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of Patent No. 6,626,219 has been reviewed and is accepted. The terminal disclaimer has been recorded.

6. Applicant's arguments filed 3-1-2006 have been fully considered but they are not persuasive as regards the remaining rejections.

The 35 USC 112 rejections have however been withdrawn in view of the amendments to the claims. The obviousness-type double patenting rejection has also been withdrawn with entry of the terminal disclaimer.

As to the rejection based upon WO '033, as noted in the statement of rejection, several claims still lack descriptive support in the parent and thus this rejection will be maintained against these claims.

The rejections based upon Elspass et al. as a primary reference have been withdrawn in view the amendments to the claims coupled with applicant's arguments. The rejection based on Costemalle et al. '662 will however be maintained. Responsive to this rejection, applicant has stressed the arguments pertaining to Elspass. In this rejection, however, Elspass was applied principally as further evidence that the ordinary artisan, in addition to being considered to understand the similar functional requirements of inner tubes and innerliners and the common nature of employing butyl compounds for both, understands that similar compounds to those claimed have known

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use as both innerliners and inner tubes. In particular, it is again emphasized that, as is well known, the functional requirements for a tire inner liner and a tire inner tube are very similar, it being again considered to be very common to employ essentially the same compounds for both (typically butyl type compounds) and applicant has not challenged this. To form an inner tube from the advantageous innerliner compositions of Costemalle would therefore have been obvious for the expected benefits of heat aging resistance, etc. Further, note again also the excerpted Polymeric Materials Encyclopedia, like Costemalle, indicates that EXXPRO™ elastomer have advantages for tire innerliners – additionally, page 3491 of this excerpt also suggests that “tire bladders” are increasingly adopting the EXXPRO™ elastomers for the *expected improved flex and heat aging properties*. It is submitted that the expected advantages accompanying such materials would have strongly motivated the artisan to adopt such for inner tubes as well as innerliners, it being considered to have reasonably been expected to have been understood by the ordinary artisan that both inner tubes and innerliners would benefit from improved flex and heat aging.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Geoffrey L. Knable whose telephone number is 571-272-1220. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Geoffrey L. Knable  
Primary Examiner  
Art Unit 1733

G. Knable  
May 14, 2006